

1 AN ACT concerning local government.

2 Be it enacted by the People of the State of Illinois,
3 represented in the General Assembly:

4 Section 5. The Counties Code is amended by changing
5 Section 5-12001.1 as follows:

6 (55 ILCS 5/5-12001.1)

7 Sec. 5-12001.1. Authority to regulate certain specified
8 facilities of a telecommunications carrier.

9 (a) Notwithstanding any other Section in this Division,
10 the county board or board of county commissioners of any
11 county shall have the power to regulate the location of the
12 facilities, as defined in subsection (c), of a
13 telecommunications carrier established outside the corporate
14 limits of cities, villages, and incorporated towns that have
15 municipal zoning ordinances in effect. The power shall only
16 be exercised to the extent and in the manner set forth in
17 this Section.

18 (b) The provisions of this Section shall not abridge any
19 rights created by or authority confirmed in the federal
20 Telecommunications Act of 1996, P.L. 104-104.

21 (c) As used in this Section, unless the context
22 otherwise requires:

23 (1) "county jurisdiction area" means those portions
24 of a county that lie outside the corporate limits of
25 cities, villages, and incorporated towns that have
26 municipal zoning ordinances in effect;

27 (2) "county board" means the county board or board
28 of county commissioners of any county;

29 (3) "residential zoning district" means a zoning
30 district that is designated under a county zoning
31 ordinance and is zoned predominantly for residential

1 uses;

2 (4) "non-residential zoning district" means the
3 county jurisdiction area of a county, except for those
4 portions within a residential zoning district;

5 (5) "residentially zoned lot" means a zoning lot in
6 a residential zoning district;

7 (6) "non-residentially zoned lot" means a zoning
8 lot in a non-residential zoning district;

9 (7) "telecommunications carrier" means a
10 telecommunications carrier as defined in the Public
11 Utilities Act as of January 1, 1997;

12 (8) "facility" means that part of the signal
13 distribution system used or operated by a
14 telecommunications carrier under a license from the FCC
15 consisting of a combination of improvements and equipment
16 including (i) one or more antennas, (ii) a supporting
17 structure and the hardware by which antennas are
18 attached; (iii) equipment housing; and (iv) ancillary
19 equipment such as signal transmission cables and
20 miscellaneous hardware;

21 (9) "FAA" means the Federal Aviation Administration
22 of the United States Department of Transportation;

23 (10) "FCC" means the Federal Communications
24 Commission;

25 (11) "antenna" means an antenna device by which
26 radio signals are transmitted, received, or both;

27 (12) "supporting structure" means a structure,
28 whether an antenna tower or another type of structure,
29 that supports one or more antennas as part of a facility;

30 (13) "qualifying structure" means a supporting
31 structure that is (i) an existing structure, if the
32 height of the facility, including the structure, is not
33 more than 15 feet higher than the structure just before
34 the facility is installed, or (ii) a substantially

1 similar, substantially same-location replacement of an
2 existing structure, if the height of the facility,
3 including the replacement structure, is not more than 15
4 feet higher than the height of the existing structure
5 just before the facility is installed;

6 (14) "equipment housing" means a combination of one
7 or more equipment buildings or enclosures housing
8 equipment that operates in conjunction with the antennas
9 of a facility, and the equipment itself;

10 (15) "height" of a facility means the total height
11 of the facility's supporting structure and any antennas
12 that will extend above the top of the supporting
13 structure; however, if the supporting structure's
14 foundation extends more than 3 feet above the uppermost
15 ground level along the perimeter of the foundation, then
16 each full foot in excess of 3 feet shall be counted as an
17 additional foot of facility height. The height of a
18 facility's supporting structure is to be measured from
19 the highest point of the supporting structure's
20 foundation;

21 (16) "facility lot" means the zoning lot on which a
22 facility is or will be located;

23 (17) "principal residential building" has its
24 common meaning but shall not include any building under
25 the same ownership as the land of the facility lot.
26 "Principal residential building" shall not include any
27 structure that is not designed for human habitation;

28 (18) "horizontal separation distance" means the
29 distance measured from the center of the base of the
30 facility's supporting structure to the point where the
31 ground meets a vertical wall of a principal residential
32 building; and

33 (19) "lot line set back distance" means the
34 distance measured from the center of the base of the

1 facility's supporting structure to the nearest point on
2 the common lot line between the facility lot and the
3 nearest residentially zoned lot. If there is no common
4 lot line, the measurement shall be made to the nearest
5 point on the lot line of the nearest residentially zoned
6 lot without deducting the width of any intervening right
7 of way.

8 (d) In choosing a location for a facility, a
9 telecommunications carrier shall consider the following:

10 (1) A non-residentially zoned lot is the most
11 desirable location.

12 (2) A residentially zoned lot that is not used for
13 residential purposes is the second most desirable
14 location.

15 (3) A residentially zoned lot that is 2 acres or
16 more in size and is used for residential purposes is the
17 third most desirable location.

18 (4) A residentially zoned lot that is less than 2
19 acres in size and is used for residential purposes is the
20 least desirable location.

21 The size of a lot shall be the lot's gross area in square
22 feet without deduction of any unbuildable or unusable land,
23 any roadway, or any other easement.

24 (e) In designing a facility, a telecommunications
25 carrier shall abide by ~~consider~~ the following guidelines:

26 (1) No building or tower that is part of a facility
27 shall ~~should~~ encroach onto any recorded easement
28 prohibiting the encroachment unless the grantees of the
29 easement have given their approval.

30 (2) Lighting shall ~~should~~ be installed for security
31 and safety purposes only. Except with respect to
32 lighting required by the FCC or FAA, all lighting shall
33 ~~should~~ be shielded so that no glare extends substantially
34 beyond the boundaries of a facility.

1 (3) No facility shall ~~sho~~ld encroach onto an
2 existing septic field.

3 (4) Any facility located in a special flood hazard
4 area or wetland shall ~~sho~~ld meet the legal requirements
5 for those lands.

6 (5) Existing trees more than 3 inches in diameter
7 shall ~~sho~~ld be preserved if reasonably feasible during
8 construction. If any tree more than 3 inches in diameter
9 is removed during construction a tree 3 inches or more in
10 diameter of the same or a similar species shall be
11 planted as a replacement if reasonably feasible. Tree
12 diameter shall be measured at a point 3 feet above ground
13 level.

14 (6) If any elevation of a facility faces an
15 existing, adjoining residential use within a residential
16 zoning district, low maintenance landscaping shall ~~sho~~ld
17 be provided on or near the facility lot to provide at
18 least partial screening of the facility. The quantity
19 and type of that landscaping shall ~~sho~~ld be in
20 accordance with any county landscaping regulations of
21 general applicability, except that paragraph (5) of this
22 subsection (e) shall control over any tree-related
23 regulations imposing a greater burden.

24 (7) Fencing shall ~~sho~~ld be installed around a
25 facility. The height and materials of the fencing shall
26 ~~sho~~ld be in accordance with any county fence regulations
27 of general applicability.

28 (8) Any building that is part of a facility located
29 adjacent to a residentially zoned lot shall ~~sho~~ld be
30 designed with exterior materials and colors that are
31 reasonably compatible with the residential character of
32 the area.

33 (f) The following provisions shall apply to all
34 facilities established in any county jurisdiction area after

1 the effective date of the amendatory Act of 1997:

2 (1) Except as provided in this Section, no yard or
3 set back regulations shall apply to or be required for a
4 facility.

5 (2) A facility may be located on the same zoning
6 lot as one or more other structures or uses without
7 violating any ordinance or regulation that prohibits or
8 limits multiple structures, buildings, or uses on a
9 zoning lot.

10 (3) No minimum lot area, width, or depth shall be
11 required for a facility, and unless the facility is to be
12 manned on a regular, daily basis, no off-street parking
13 spaces shall be required for a facility. If the facility
14 is to be manned on a regular, daily basis, one off-street
15 parking space shall be provided for each employee
16 regularly at the facility. No loading facilities are
17 required.

18 (4) No portion of a facility's supporting structure
19 or equipment housing shall be less than 15 feet from the
20 front lot line of the facility lot or less than 10 feet
21 from any other lot line.

22 (5) No bulk regulations or lot coverage, building
23 coverage, or floor area ratio limitations shall be
24 applied to a facility or to any existing use or structure
25 coincident with the establishment of a facility. Except
26 as provided in this Section, no height limits or
27 restrictions shall apply to a facility.

28 (6) A county's review of a building permit
29 application for a facility shall be completed within 30
30 days. If a decision of the county board is required to
31 permit the establishment of a facility, the county's
32 review of the application shall be simultaneous with the
33 process leading to the county board's decision.

34 (7) The improvements and equipment comprising the

1 facility may be wholly or partly freestanding or wholly
2 or partly attached to, enclosed in, or installed in or on
3 a structure or structures.

4 (8) Any public hearing authorized under this
5 Section shall be conducted in a manner determined by the
6 county board. Notice of any such public hearing shall be
7 published at least 15 days before the hearing in a
8 newspaper of general circulation published in the county.

9 (9) Any decision regarding a facility by the county
10 board or a county agency or official shall be supported
11 by written findings of fact. The circuit court shall
12 have jurisdiction to review the reasonableness of any
13 adverse decision and the plaintiff shall bear the burden
14 of proof, but there shall be no presumption of the
15 validity of the decision.

16 (g) The following provisions shall apply to all
17 facilities established after the effective date of this
18 amendatory Act of 1997 in the county jurisdiction area of any
19 county with a population of less than 180,000:

20 (1) A facility is permitted if its supporting
21 structure is a qualifying structure or if both of the
22 following conditions are met:

23 (A) the height of the facility shall not
24 exceed 200 feet, except that if a facility is
25 located more than one and one-half miles from the
26 corporate limits of any municipality with a
27 population of 25,000 or more the height of the
28 facility shall not exceed 350 feet; and

29 (B) the horizontal separation distance to the
30 nearest principal residential building shall not be
31 less than the height of the supporting structure;
32 except that if the supporting structure exceeds 99
33 feet in height, the horizontal separation distance
34 to the nearest principal residential building shall

1 be at least 100 feet or 80% of the height of the
2 supporting structure, whichever is greater.
3 Compliance with this paragraph shall only be
4 evaluated as of the time that a building permit
5 application for the facility is submitted. If the
6 supporting structure is not an antenna tower this
7 paragraph is satisfied.

8 (2) Unless a facility is permitted under paragraph
9 (1) of this subsection (g), a facility can be established
10 only after the county board gives its approval following
11 consideration of the provisions of paragraph (3) of this
12 subsection (g). The county board may give its approval
13 after one public hearing on the proposal, but only by the
14 favorable vote of a majority of the members present at a
15 meeting held no later than 75 days after submission of a
16 complete application by the telecommunications carrier.
17 If the county board fails to act on the application
18 within 75 days after its submission, the application
19 shall be deemed to have been approved. No more than one
20 public hearing shall be required.

21 (3) For purposes of paragraph (2) of this
22 subsection (g), the following siting considerations, but
23 no other matter, shall be considered by the county board
24 or any other body conducting the public hearing:

25 (A) the criteria in subsection (d) of this
26 Section;

27 (B) whether a substantial adverse effect on
28 public safety will result from some aspect of the
29 facility's design or proposed construction, but only
30 if that aspect of design or construction is
31 modifiable by the applicant;

32 (C) the benefits to be derived by the users of
33 the services to be provided or enhanced by the
34 facility and whether public safety and emergency

1 response capabilities would benefit by the
2 establishment of the facility;

3 (D) the existing uses on adjacent and nearby
4 properties; and

5 (E) whether ~~the extent to which~~ the design of
6 the proposed facility reflects full compliance with
7 subsection (e) of this Section.

8 (4) On judicial review of an adverse decision, the
9 issue shall be the reasonableness of the county board's
10 decision in light of the evidence presented on the siting
11 considerations and the well-reasoned recommendations of
12 any other body that conducts the public hearing.

13 (h) The following provisions shall apply to all
14 facilities established after the effective date of this
15 amendatory Act of 1997 in the county jurisdiction area of any
16 county with a population of 180,000 or more. A facility is
17 permitted in any zoning district subject to the following:

18 (1) A facility shall not be located on a lot under
19 paragraph (4) of subsection (d) unless a variation is
20 granted by the county board under paragraph (4) of this
21 subsection (h).

22 (2) Unless a height variation is granted by the
23 county board, the height of a facility shall not exceed
24 75 feet if the facility will be located in a residential
25 zoning district or 200 feet if the facility will be
26 located in a non-residential zoning district. However,
27 the height of a facility may exceed the height limit in
28 this paragraph, and no height variation shall be
29 required, if the supporting structure is a qualifying
30 structure.

31 (3) The improvements and equipment of the facility
32 shall be placed to comply with the requirements of this
33 paragraph at the time a building permit application for
34 the facility is submitted. If the supporting structure

1 is an antenna tower other than a qualifying structure
2 then (i) if the facility will be located in a residential
3 zoning district the lot line set back distance to the
4 nearest residentially zoned lot shall be at least 50% of
5 the height of the facility's supporting structure or (ii)
6 if the facility will be located in a non-residential
7 zoning district the horizontal separation distance to the
8 nearest principal residential building shall be at least
9 equal to the height of the facility's supporting
10 structure.

11 (4) The county board may grant variations for any
12 of the regulations, conditions, and restrictions of this
13 subsection (h), after one public hearing on the proposed
14 variations, by a favorable vote of a majority of the
15 members present at a meeting held no later than 75 days
16 after submission of an application by the
17 telecommunications carrier. If the county board fails to
18 act on the application within 75 days after submission,
19 the application shall be deemed to have been approved.
20 In its consideration of an application for variations,
21 the county board, and any other body conducting the
22 public hearing, shall consider the following, and no
23 other matters:

24 (A) whether, but for the granting of a
25 variation, the service that the telecommunications
26 carrier seeks to enhance or provide with the
27 proposed facility will be less available, impaired,
28 or diminished in quality, quantity, or scope of
29 coverage;

30 (B) whether the conditions upon which the
31 application for variations is based are unique in
32 some respect or, if not, whether the strict
33 application of the regulations would result in a
34 hardship on the telecommunications carrier;

1 (C) whether a substantial adverse effect on
2 public safety will result from some aspect of the
3 facility's design or proposed construction, but only
4 if that aspect of design or construction is
5 modifiable by the applicant;

6 (D) whether there are benefits to be derived
7 by the users of the services to be provided or
8 enhanced by the facility and whether public safety
9 and emergency response capabilities would benefit by
10 the establishment of the facility; and

11 (E) whether ~~the extent to which~~ the design of
12 the proposed facility reflects full compliance with
13 subsection (e) of this Section.

14 No more than one public hearing shall be required.

15 (5) On judicial review of an adverse decision, the
16 issue shall be the reasonableness of the county board's
17 decision in light of the evidence presented and the
18 well-reasoned recommendations of any other body that
19 conducted the public hearing.

20 (Source: P.A. 90-522, eff. 1-1-98.)

21 Section 99. Effective date. This Act takes effect upon
22 becoming law.